

John H. Maynard
CROWLEY FLECK PLLP
P.O. Box 797
Helena, MT 59601-6287
Telephone: (406) 449-4165
Facsimile: (406) 449-5149
jhmaynard@crowleyfleck.com

Matthew S. Brahana
CROWLEY FLECK PLLP
500 Transwestern Plaza II
490 North 31st Street
P.O. Box 2529
Billings, MT 59103-2529
Telephone: (406) 252-3441
Facsimile: (406) 256-0277
mbrahana@crowleyfleck.com
Attorneys for Defendant

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA, BUTTE DIVISION

GLEN RAY GALLIER and JANN)	Cause No.: CV-09-34-BU-RFC
GALLIER,)	
)	
Plaintiffs,)	DEFENDANT'S RULES 12(b)(2)
)	AND 12(b)(3) MOTION TO
vs.)	DISMISS OR, ALTERNATIVELY,
)	TO TRANSFER UNDER
SOUTHWESTERN REGIONAL)	28 U.S.C. § 1406
MEDICAL CENTER, INC. d/b/a)	
CANCER TREATMENT CENTERS OF)	
AMERICA,)	
)	
Defendant.)	
)	

Defendant Southwestern Regional Medical Center, Inc. d/b/a Cancer

Treatment Centers of America (herein "SRMC") respectfully moves the Court to

dismiss Plaintiffs Glen Ray Gallier and Jann Gallier's (herein "Gallier") claims pursuant to Rules 12(b)(2) and 12(b)(3), Fed. R. Civ. P.

SRMC maintains that this Court lacks personal jurisdiction over SRMC and therefore the case cannot proceed. SRMC is neither found in Montana, pursuant to Montana's applicable long-arm jurisdiction statute, nor would the exercise of jurisdiction comport with SRMC's due process rights under the U.S. Constitution, as articulated in *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S. Ct. 154 (1945).

SRMC also respectfully requests the Court to dismiss this case pursuant to Rule 12(b)(3), Fed. R. Civ. P., as venue is not proper under 28 U.S.C. § 1391 and because Gallier should have sufficient time to refile in the proper venue, the Northern District of Oklahoma. In the alternative, the Court may transfer this case to the proper venue, the Northern District of Oklahoma, pursuant to 28 U.S.C. § 1406.

Pursuant to Local Rule 7.1(c)(1), counsel for Gallier has been contacted and objects to SRMC's motion to dismiss.

Dated this 15th day of June 2009.

/s/ John H. Maynard

John H. Maynard

Attorney for Defendant Southwestern
Regional Medical Center, Inc. d/b/a Cancer
Treatment Centers of America